

No. 03-21-00144-CV

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**In the Court of Appeals  
for the Third Judicial District  
Austin, Texas**

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FILED IN  
3rd COURT OF APPEALS  
AUSTIN, TEXAS  
6/9/2021 11:42:36 AM  
JEFFREY D. KYLE  
Clerk

THE STATE OF TEXAS,

*Appellant,*

v.

CITY OF AUSTIN, TEXAS; COUNTY OF TRAVIS, TEXAS; STEVE ADLER, IN  
HIS OFFICIAL CAPACITY AS MAYOR, CITY OF AUSTIN, TEXAS; ANDY  
BROWN, IN HIS OFFICIAL CAPACITY AS COUNTY JUDGE, COUNTY OF  
TRAVIS, TEXAS; AND MARK E. ESCOTT, IN HIS OFFICIAL CAPACITY AS  
INTERIM MEDICAL DIRECTOR AND HEALTH AUTHORITY FOR THE CITY OF  
AUSTIN AND COUNTY OF TRAVIS,

*Appellees.*

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On Appeal from the  
98th Judicial District Court, Travis County

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**STIPULATED MOTION TO DISMISS**

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The parties jointly move to dismiss this appeal. Since the State filed its opening brief in this case, the Interim Public Health Authority transitioned the Health Authority Rules into recommendations,<sup>1</sup> and the Governor issued a new executive order.<sup>2</sup> Because neither the Executive Order nor the Public Health Rules that are the subject of the appeal remain in effect, it is not in the interest of the parties or the Court to continue this litigation. Both parties preserve the right to raise similar claims and arguments in the future should the need arise. The parties request that

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<sup>1</sup> *Notice of Withdrawal and Transition to Guidance*, <https://tinyurl.com/54br2ede>.

<sup>2</sup> Office of the Texas Governor, Executive Order No. GA-36, <https://tinyurl.com/48sa6ww8>.

this appeal be dismissed. They are concurrently seeking to dismiss the trial-court litigation without prejudice.

To the extent that the Court determines it needs time to consider this request, the parties request that the Court stay further briefing in this matter pending resolution of the joint motion. Appellant's reply brief has been on hold while the parties conferred regarding whether to seek dismissal. As it is currently due on June 15, Appellant would otherwise need to seek an extension, which would waste the Court's and the parties' resources.

### **PRAYER**

The Court should dismiss this appeal. To the extent that the Court requires additional time to consider this motion, it should issue a brief administrative stay of further briefing.

Respectfully submitted.

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### **CERTIFICATE OF CONFERENCE**

On June 8, 2021, Sara Schaefer, lead counsel for the City of Austin, and Leslie Dippel, lead counsel for Travis County, stated that they do not oppose this motion.

/s/ Lanora C. Pettit  
LANORA C. PETTIT

### **CERTIFICATE OF SERVICE**

On June 9, 2021, this document was served electronically on Sara Schaefer, lead counsel for the City of Austin, via Sara.schaefer@austintexas.gov, and Leslie Dippel, lead counsel for Travis County, via leslie.dippel@traviscountytexas.gov.

/s/ Lanora C. Pettit  
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### **CERTIFICATE OF COMPLIANCE**

Microsoft Word reports that this motion contains 232 words, excluding exempted text.

/s/ Lanora C. Pettit  
LANORA C. PETTIT

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